

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

KEVIN RUSSELL, #K3887

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:12-cv-160-DCB-MTP

CHRISTOPHER EPPS, et al.

DEFENDANTS

ORDER

This cause comes before the Court on the Plaintiff's motion [33] for reconsideration of the order [32] entered August 28, 2013, denying his motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g) as well as a motion for a temporary restraining order or preliminary injunction, a motion to transfer Plaintiff "out of this prison system" and motion for a hearing. Having reviewed the motion [33] and liberally construing same, this Court has determined that the Plaintiff's motion [33] is without merit and will be denied.

The Plaintiff argues that he should be allowed to proceed as a pauper in this action under the exception provision of 28 U.S.C. § 1915(g), "imminent danger of serious physical injury." The Plaintiff bases his argument on the claim that guns and knives were found at the facility on September 13, 2013. The Plaintiff's argument relies on events that occurred months *after* the Plaintiff filed his complaint, not *at the time* he filed the complaint as required by *Baños v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998)(emphasis added). The Plaintiff's motion [33] therefore does not alter the reasoning and conclusion of the Court's order [32] entered on August 28, 2013.

The remaining requests in Plaintiff's motion [33] are premature at this time. The Court has directed Plaintiff to pay the filing fee of \$350.00 plus an administrative fee of \$50.00 which he has not done. The Court therefore cannot proceed further with the case because the Plaintiff

has not complied with the order [32] of the Court. The other requests for relief in the motion [33] are denied at this time for the Plaintiff's failure to timely pay the filing fee and may be re-urged once he pays the required fees. Accordingly, it is hereby,

ORDERED:

1. That the Plaintiff's motion [33] to reconsider is **denied**.
2. That the Plaintiff is warned that **he has 15 days from the entry of this order** to submit payment of the \$350.00 filing fee plus the \$50.00 administrative fee in this action or this action **will be dismissed without further written notice** to the Plaintiff.
3. That Plaintiff is given this final opportunity to comply with the order [32] entered on August 28, 2013, directing the Plaintiff to pay the filing fee of \$350.00 plus an administrative fee of \$50.00. If the fee is paid by the Plaintiff or someone other than the Plaintiff, there must be a written explanation that the money is being submitted as payment of the fee in this case (5:12-cv-160-DCB-MTP) on behalf of the Plaintiff Kevin Russell, #K3887. The fee of \$400.00 in this civil action may be payable to the Clerk, and mailed to the Clerk, 501 E. Court Street, Suite 2.500, Jackson, Mississippi 39201.

SO ORDERED AND ADJUDGED, this the 23rd day of September, 2013.

s/David Bramlette

UNITED STATES DISTRICT JUDGE